

GRANT F. LANGLEY
City Attorney

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LINDA ULISS BURKE
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Deputy City Attorneys



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KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
HEIDI E. GALVÁN
Assistant City Attorneys

May 19, 2008

To the Honorable Common Council
of the City of Milwaukee
Room 205 - City Hall

Re: Communication from Attorney Jonathan Cermele, Cermele & Associates,
S.C for legal fees for Police Officers Patrick Pajot, Alejandro Arce and
Jose Lopez
EC: 2554; CA: 1032-2008-740.002

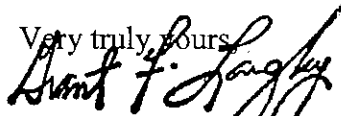
Dear Council Members:

Returned herewith is a document filed by Attorney Jonathan Cermele for attorney's fees for representing Police Officers Patrick Pajot, Alejandro Arce and Jose Lopez. The claim is in the amount of \$1,925.00 including \$33.00 in disbursements for 17.20 hours of service billed at the rate of \$110.00 per hour. We ask that this matter be introduced and referred to the Committee on Judiciary & Legislation.

We have reviewed this claim and advise that in our opinion, the time spent was reasonable. Legal representation was occasioned by a criminal investigation. No criminal charges were brought against the officers on whose behalf this claim was filed.

As we have advised you under similar circumstances in the past, the Common Council has discretion to reject this claim or to pay it in whole or in part. Wis. Stat. § 895.35, *Bablitch and Bablitch v. Lincoln County*, 82 Wis. 2d 574 (1978).

Very truly yours,


GRANT F. LANGLEY
City Attorney


Assistant City Attorney

JAS:amp
Enc.

1032-2008-740.002:124858v1

OFFICE OF THE CITY ATTORNEY

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

March 12, 2008

TO: DET. PATRICK PAJOT
DISTRICT: CIB

RE: Receipt of Legal Services from Law Firm of
Attorney Jonathan Cermele

Attorney Jonathan Cermele has made a claim with the City, indicating the attached was provided with legal services arising out of one of the following situations:

- 1) An incident occurring on NOVEMBER 6, 2007
- 2) A citizen complaint made by N/A
- 3) A police shooting incident occurring at 1336 W. GREENFIELD AV.

Is this information correct?

YES NO

Did you receive legal representation
in this matter?

YES NO

Your signature: Patrick Pajot

Print your name: Patrick Pajot

Upon completion, please return this memorandum to the Professional Performance Division at the Police Academy (Room 325) as soon as possible.

Acting Captain Kurt Leibold
KURT LEIBOLD
Acting Captain of Police
Professional Performance Division

KRL: kjs

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

March 12, 2008

TO: P.O. ALEJANDRO ARCE
DISTRICT: INTEL

RE: Receipt of Legal Services from Law Firm of
Attorney Jonathan Cermele

Attorney Jonathan Cermele has made a claim with the City, indicating the attached was provided with legal services arising out of one of the following situations:

- 1) An incident occurring on NOVEMBER 6, 2007
- 2) A citizen complaint made by N/A
- 3) A police shooting incident occurring at 1336 W. GREENFIELD AV.

Is this information correct?

YES NO

Did you receive legal representation in this matter?

YES NO Rachel Pings

Your signature: _____

[Handwritten Signature]

Print your name: _____

Alejandro ARCE

Upon completion, please return this memorandum to the Professional Performance Division at the Police Academy (Room 325) as soon as possible.

A/C Kurt Leibold
KURT LEIBOLD
Acting Captain of Police
Professional Performance Division

KRL: kjs

MILWAUKEE POLICE DEPARTMENT
PROFESSIONAL PERFORMANCE DIVISION
325 POLICE ACADEMY
MILWAUKEE, WI 53203
312.425.3253

MILWAUKEE POLICE DEPARTMENT

MEMORANDUM

March 12, 2008

TO: P.O. JOSE LOPEZ
DISTRICT: INTEL

RE: Receipt of Legal Services from Law Firm of
Attorney Jonathan Cermele

Attorney Jonathan Cermele has made a claim with the City, indicating the attached was provided with legal services arising out of one of the following situations:

- 1) An incident occurring on NOVEMBER 6, 2007
- 2) A citizen complaint made by N/A
- 3) A police shooting incident occurring at 1336 W. GREENFIELD AV.

Is this information correct?

YES NO

Did you receive legal representation
in this matter?

YES NO Rachel King

Your signature: *Jose Lopez*

Print your name: JOSE LOPEZ

Upon completion, please return this memorandum to the Professional Performance Division at the Police Academy (Room 325) as soon as possible.

A/C Kurt Leibold
KURT LEIBOLD
Acting Captain of Police
Professional Performance Division

KRL: kjs

CERMELE & ASSOCIATES, S.C.

- ATTORNEYS AT LAW -
WWW.CERMELELAW.COM

JONATHAN CERMELE
RACHEL L. PINGS
MATTHEW L. GRANITZ

LAURIE A. EGGERT
- OF COUNSEL -

6310 WEST BLUEMOUND ROAD
SUITE 200
MILWAUKEE, WISCONSIN 53213
(414) 276-8750
FAX (414) 276-8906

February 13, 2008

Mr. Ronald D. Leonhardt
Milwaukee City Clerk
800 City Hall
200 East Wells Street
Milwaukee, WI 53202

CITY OF MILWAUKEE
2008 FEB 15 PM 12:55
RONALD D. LEONHARDT
CITY CLERK

RE: MPD Criminal Investigation of PO's Patrick Pajot, Alejandro Arce and Jose Lopez
Allegations Regarding Officer-Involved Shooting
Date of Incident: November 6, 2007
Location of Incident: 1336 West Greenfield Avenue

Dear Mr. Leonhardt:

Pursuant to Article 58 of the 2007-2009 Collective Bargaining Agreement between the City and the Milwaukee Police Association, the City should request that this claim be placed on the Common Council Committee agenda within 180 days of its receipt.

This claim is being submitted under §895.35(2), STATS., which provides that:

Notwithstanding sub (1), the City . . . shall reimburse a protective services officer for reasonable attorney fees incurred by the officer in connection with a criminal proceeding arising from the officer's conduct in the performance of official duties, unless, in relation to that conduct, any of the following applies:

- a. The officer is convicted of a crime;
- b. The officer's employment is terminated for cause;
- c. The officer resigned for reasons other than retirement before the attorneys fees are incurred;
- d. The officer is demoted or reduced in rank
- e. The officer is suspended without pay for 10 or more working days. §895.35(2), STATS.

Officer's Pajot, Arce and Lopez are all considered a "protective services officer" under the statute. They have incurred the fees compiled in this claim as a direct result of their being investigated for actions taken within their official capacity, and in the performance of their duties, in connection with the use of deadly force. None of the "exceptions" apply.¹

The incident resulted in the District Attorney's Office conducting a criminal investigation into the shooting of Mr. Victor Veloz, under Chapter 979, STATS. That investigation qualifies as a "proceeding" which mandates payment under §895.35(2), STATS.

Thank you.

Sincerely,


CERMELE & ASSOCIATES, S.C.

Jon Cermele

/kjs

Attachment

PAJOT, ARCE and LOPEZ

¹ Neither officer was convicted of a crime, terminated for cause, resigned prior to incurring the fees associated with this claim, demoted, or suspended without pay for more than 10 days. *See §895.35(2)(b), STATS.*

CERMELE & ASSOCIATES, S.C.

- ATTORNEYS AT LAW -
WWW.CERMELELAW.COM

JONATHAN CERMELE
RACHEL L. PINGS
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LAURIE A. EGGERT
- OF COUNSEL -

6310 WEST BLUEMOUND ROAD
SUITE 200
MILWAUKEE, WISCONSIN 53213
(414) 276-8750
FAX (414) 276-8906

February 13, 2008

Mr. Ronald Leonhardt
Milwaukee City Clerk
City Hall, Room 205
200 East Wells Street
Milwaukee WI 53202

RE: MPD Criminal Investigation of Officer-Involved Shooting
Allegations Regarding PO's Patrick Pajot, Alejandro Arce and Jose Lopez
Date of Incident: November 16, 2007
Location of Incident: 1336 West Greenfield Avenue
Professional services

	<u>Hours</u>
11/6/2007 Telephone call from MPD regarding officer-involved shooting; telephone call from PO Pajot regarding same and medical status of PO's Arce and Lopez; several telephone calls to CIB; several telephone calls to MPD; telephone call to Atty Pings; coordinate legal representation for Officers Arce and Lopez (at Froedtert); telephone call to Atty. Granitz; travel to scene; meeting with witnesses; discussion with MPD supervisors and DA's investigators; travel to PAB; meeting with PO Pajot; telephone call to and from Pings regarding decision not to provide Officers Arce and Lopez for statement, given traumatic medical condition; attend PO Pajot's statement to CIB and DA; return travel; open file; memo to file.	5.10
Several telephone calls from and to Atty. Cermele and MPD; travel to Froedtert; interview Officers Arce and Lopez; return travel.	2.50
11/7/2007 Intra-office conference with Granitz and Pings; coordinate statement of PO Lopez to CIB and DA.	0.40

	<u>Hours</u>
11/7/2007 Memo to file; CCAP research for suspects.	0.20
Intra-office conference with Cermele; memo to file regarding interviews.	0.50
11/9/2007 Telephone call from and to PO Arce's family; telephone call from CIB; memo to file; telephone call to PO Lopez; telephone call to CIB; telephone call to and from DA Chisholm.	1.00
11/12/2007 Discussion with Pings regarding statements of PO's Lopez and Arce.	0.10
11/15/2007 Telephone call from and to CIB; memo to file.	0.20
11/27/2007 Telephone call from DA's Investigator; telephone call to PO Arce; telephone call to PO Lopez.	0.40
11/30/2007 Telephone call from and to DA's Investigator; memo to file; correspondence to clients.	0.30
12/6/2007 Telephone call from CIB telephone call to PO Lopez.	0.20
12/13/2007 Telephone call from and to CIB.	0.10
12/14/2007 Telephone call from and to CIB; telephone call to PO Lopez.	0.20
12/17/2007 Telephone call to CIB; schedule and calendar statement of PO Lopez; several telephone call to and from PO Lopez; travel; meeting with PO Lopez; attend statement of PO Lopez to CIB and DA; return travel.	2.50
12/27/2007 Telephone call to CIB.	0.10
1/3/2008 Receive and review correspondence from DA Chisholm clearing PO Lopez; telephone call to same regarding status of PO Pajot; correspondence to PO Lopez.	0.30

	<u>Hours</u>
1/4/2008 Telephone call from DA's office confirming no clearance letter for PO Pajot; several telephone calls from and to CIB and PO Arce to schedule statement; schedule and calendar same.	0.30
1/8/2008 Telephone call to CIB; review report of PO Arce's preliminary statement; travel; attend statement of PO Arce to CIB and DA; return travel; memo to file.	2.50
1/9/2008 Receive and review correspondence from DA Chisholm clearing all Officers; correspondence to clients; close file.	0.30
	<u>Amount</u>
For professional services rendered	17.20
Additional charges:	\$1,892.00
11/6/2007 Parking	8.00
Parking	8.00
12/17/2007 Parking	8.00
1/8/2008 Parking	9.00
	<u>\$33.00</u>
Total costs	<u>\$1,925.00</u>
Total amount of this bill	<u>\$1,925.00</u>
Balance due	<u><u>\$1,925.00</u></u>

(Rate: \$110.00 per hour)



OFFICE OF DISTRICT ATTORNEY

Milwaukee County

JOHN T. CHISHOLM • District Attorney

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Doreen M. ...

January 8, 2008

Chief Edward Flynn
Milwaukee Police Department
951 N. James Lovell St., Room 705A
Milwaukee, WI 53233

RE: Milwaukee Police Officers Jose Lopez, PS No. 008815,
and Alejandro Arce, PS No. 012989
(Modification of December 20, 2007 letter to then Acting Chief Dale Schunk)

Dear Chief Flynn:

On November 6, 2007. Victor Veloz was shot by Officer Alejandro Arce in the area of 1336 West Greenfield Avenue, in the City of Milwaukee. The shooting occurred after Veloz discharged a handgun into a police vehicle driven by officer Jose Lopez.

I personally investigated the shooting scene with Milwaukee County District Attorney investigators, and determined that Officers Arce, Lopez, and Patrick Pajot were in an unmarked squad responding to a dispatch for "shots fired" when they encountered Veloz in the near vicinity of the shooting. Veloz and his accomplice, Jose Fernandez, matched the description of two individuals suspected in the attempted homicide of two individuals prior to the encounter with the above listed officers (both individuals are now charged in Milwaukee County Circuit Court with felony counts for their actions).

Officer Lopez drove his squad towards Veloz to conduct a stop when he observed Veloz remove what Lopez believed to be a weapon from his waist area and start to direct the weapon at his squad. Lopez indicated that because of the short distance between himself and Veloz, he drove the squad towards Veloz to prevent Veloz from firing his weapon. Officer Lopez believes the squad may have struck Veloz but Veloz was still able to fire his weapon into the squad, with one round striking Officer Lopez. Officer Lopez did not discharge his weapon during this encounter.

Officer Arce was present with Officers Lopez and Pajot at 14th and Greenfield when he heard Vice Control officers call out over the radio that the suspects from the shooting scene were directly in front of their squad. Arce saw two individuals attempting to run east

Page 2

January 8, 2008

RE: Milwaukee Police Officers Jose Lopez, PS No. 008815,
and Alejandro Arce, PS No. 012989

(Modification of December 20, 2007 letter to then Acting Chief Dale Schunk)

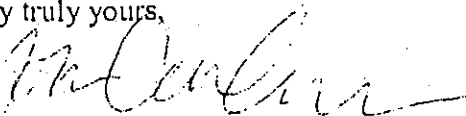
on Greenfield Avenue and observed Officer Lopez drive on to the sidewalk. Arce attempted to get out of the squad car after it stopped and was immediately confronted by an armed gunman (Veloz) who fired directly at him from short range. Officer Arce says he went "numb" and did not know immediately where he was struck, but knew he was hit. Arce returned fire and heard Officer Lopez exclaim that he was hit. Arce continued to engage the shooter until the gunman fell on the sidewalk and put his hands in the air.

Arce also indicated that based on his personal and professional experience (he grew up in the vicinity of 14th and Greenfield) the squad car was easily identifiable as a police car. In addition Arce indicates that he had his identification displayed and that he identified himself as a police officer before the gunman fired. I find his account credible and consistent with the evidence recovered from the scene as well as other witness accounts and statements made by the suspects themselves.

Based on the investigation I find Officer Lopez' and Arce's actions reasonable and a privileged use of force under the circumstances. The actions of Mr. Veloz and his accomplice were criminal in nature and posed significant risk to the officers and citizens in that area.

By this letter, I respectfully request that Officers Lopez and Arce be allowed to return to full duty.

Very truly yours,



John Chisholm
District Attorney

IC:ss

cc: Deputy Chief Brian O'Keefe
Atty. Jonathan Cermele

RECEIVED

DEC 26 2007

OFFICE OF DISTRICT ATTORNEY

CERMELE & ASSOCIATES, S.C.

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 Arson Kwikakee
 Jacob A. Itanan



Milwaukee County

JOHN T. CHISHOLM • District Attorney

December 20, 2007

Acting Chief Dale Schunk
 Milwaukee Police Department
 951 N. James Lovell St., Room 705A
 Milwaukee, WI 53233

RE: Milwaukee Police Officer Jose Lopez, PS No. 008815;

Dear Chief Schunk:

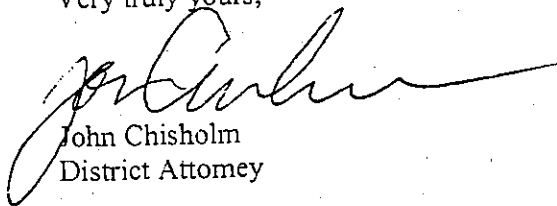
On January 20, 2007, Victor Veloz was shot by Officer Alex Arce in the area of 1336 West Greenfield Avenue, in the City of Milwaukee. The shooting occurred after Veloz discharged a handgun into a police vehicle driven by officer Jose Lopez.

I personally investigated the shooting scene with Milwaukee County District Attorney investigators, and determined that Officer Arce, Officer Jose Lopez and Officer Patrick Pajot were in an unmarked squad responding to a dispatch for "shots fired" when they encountered Veloz in the near vicinity of the shooting. Veloz and his accomplice, Jose Fernandez, matched the description of two individuals suspected in the attempted homicide of two individuals in the near vicinity (both individuals are now charged in Milwaukee Circuit Court with felony counts for their actions). Officer Lopez drove his squad towards Veloz to conduct a stop when he observed Veloz remove what Lopez believed to be a weapon from his waist area and start to direct the weapon at his squad. Lopez indicated that because of the short distance between himself and Veloz, he drove the squad towards Veloz to prevent Veloz from firing his weapon. Officer Lopez believes the squad may have struck Veloz but Veloz was still able to fire his weapon into the squad, with one round striking Officer Lopez.

I find Officer Lopez's actions reasonable and a privileged use of force under the circumstances. The actions of Mr. Veloz were criminal in nature and posed significant risk to the officers and citizens in that area.

By this letter, I respectfully request that Officer Jose Lopez be allowed to return to full duty.

Very truly yours,



John Chisholm
 District Attorney

JC:ss
 cc:Deputy Chief Brian O'Keefe
 Atty. Jonathan Cermele